(38)

HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (S) No. 3070 of 2005

Petitioner		Vinod Kumar Mahato, S/o. Shri T.P. Mahato, Peon, Balak Ashram. Baijnathpur, Block Bhaiyathan, Dist. Sarguja, MP.
		Versus
Respondents	1)	State of M.P., through Secretary, Department of Tribal Welfare, Bhopal, MP.
	2)	Asst. Commissioner, Department of Tribal Welfare, Ambikapur, Dist. Sarguja, MP.

SB: Hon'ble Shri Justice Satish K. Agnihotri

Present:
Shri A.K. Prasad, counsel for the petitioner.
Smt. Anju Ahuja, Dy. Govt. Advocate for the State.

ORAL ORDER
(Passed on 10th May, 2007)

Learned counsel appearing for the petitioner submits that the father of the petitioner, namely T.P. Mahato while working as Assistant Teacher in Balak Ashram, Baijnathpur, Block Baiyathan, Dist. Surguja, died on 8-8-1993 in harness.

2. The petitioner, being one of the dependents –legal heirs of the deceased, was granted compassionate appointment to the post of peon vide Annexure A/2. Learned counsel appearing for the petitioner stated in the petition that the petitioner was entitled to be granted appointment as L.D.C. The petitioner made a representation dated 17-9-1998 (Annexure A/3) to the respondents/authorities to consider his case to the post of L.D.C., but the respondents authorities have not considered his case. Being aggrieved, the petitioner has filed this petition.

39

3. It is well settled that compassionate ground is not a method of recruitment, but is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

4. In **Haryana State Electricity Board and another Vs. Hakim Singh**[1], the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

4. The Supreme Court in **State of J.&K and others Vs. Sajad Ahmed Mir**[2], after having considered all the aspects of compassionate appointment, in para 11 observed as under:

> "11..... It is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, on appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the

[1] (1997) 8 SCC 85
[2] (2006) 5 SCC 766

40

sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution."

5. In view of the above settled principles of law, there is no merit in this petition. The petition is accordingly dismissed summarily. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Raju